

**REMARKS**

Applicant acknowledges with appreciation the Examiner's allowance of claims 38, 40-45, 48-51, and 54-56. Applicant has amended claims 38, 40-42, 46, 51 and 54-56 and added claims 57-67. After entry of this amendment, claims 38, 40-51 and 54-67 are pending.

Applicant has amended claims 38, 40, 41, 51, 54 and 55 to recite a DNA sequence that on expression codes for a polypeptide coded for on expression by DNA inserts, sequences or molecules specifically recited in each claim (i.e., a degenerate of the specific DNA sequences claimed). Support for these amendments may be found, for example, in original claims 2-3, 6-8, 11 and 25 and throughout the specification, for example, on page 10, lines 1-20, and page 90, line 33 to page 91, line 9. In the July 15, 2003 Amendment and Reply to Office Action, applicant cancelled claims 37 and 52 (which depended from claim 51) and amended claims 38, 40-41, 45 and 48-50 to no longer depend from a cancelled base claim. In making that amendment, applicant omitted the "hybridizing" language of the base claims (i.e., 37(b) and 51(b)), thus avoiding the obviousness-type double patenting rejection. Applicant however, failed to include the unrejected "degenerate" language of the base claims (i.e., 37(c) and 51(c)) in the newly written, now independent, formerly dependent, claims. These amendments correct that inadvertent oversight.

Applicant has amended claim 42 so that it no longer depends from claim 40. Added claims 57, 58 and 59 correspond to former claims 42, 43 and 44. They depend directly or indirectly from claim 40.

Applicant has amended claim 46 to remove the objected-to multiple dependencies. Amended claim 46 no longer depends from claim 40. Added claims 60 and 61 correspond to former claims 46 and 47, respectively. They depend directly or indirectly from claim 40. Amended claim 46 also no longer depends from claim 42. Added claims 62, 63, 64, 65 correspond to former claims 46, 43, 44 and 47. They depend directly or indirectly from claim 42. These added claims were necessitated by the amendments to claim 46.

Applicant has amended claim 51 so that it no longer recites the third and fourth DNA sequences. Added claim 66 corresponds to former claim 51. It recites the third and fourth DNA sequences of former claim 51.

Applicant has amended claims 54-56 to replace the term " $\alpha$ -type interferon" with " $\alpha$ -interferon". Because the claims recite DNA sequences encoding specific subtypes of  $\alpha$ -interferon, the term " $\alpha$ -type" is not needed. Applicant also has amended claim 56 so that it no longer depends from claim 55. Added claim 67 corresponds to former claim 56. It depends from claim 55.

The amendments and added claims do not constitute new matter.

### **THE OBJECTION**

#### **Objection Under 37 C.F.R. § 1.75 (c)**

The Examiner has objected to the form of claims 46 and 47 because, under 37 C.F.R. § 1.75(c), a multiple dependent claim may not depend from another multiple dependent

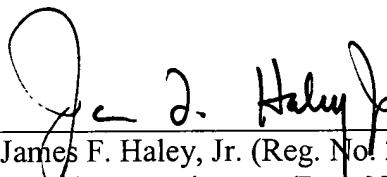
Application No.: 08/487,280  
Amendment dated April 1, 2004  
In response to Examiner's Office Action dated October 2, 2003

claim. Applicant has overcome this objection by amending claim 46 to depend from any one of independent claims 38, 41 and 45. The amendment to claim 46 necessitated the addition of claims 60-65. Applicant respectfully requests withdrawal of this multiple dependency objection.

### **CONCLUSION**

In view of the foregoing amendments and remarks, applicant requests that the Examiner withdraw all of the outstanding objections and allow the pending claims.

Respectfully submitted,



---

James F. Haley, Jr. (Reg. No. 27,794)  
Jennifer T. Weissman (Reg. No. 40,868)  
Attorneys for Applicant  
Connie Wong (Limited Recognition)  
Agent for Applicant  
c/o FISH & NEAVE  
Customer No. 1473  
1251 Avenue of the Americas  
New York, New York 10020-1105  
Tel.: (212) 596-9000  
Fax: (212) 596-9090